

APPROVED

**BOARD OF DENTISTRY
MINUTES OF BOARD MEETING**

Friday, December 9, 2005

**Department of Health Professions
6603 West Broad Street, 5th Floor
Richmond, Virginia 23230-1712**

- CALL TO ORDER:** A meeting of the Virginia Board of Dentistry was called to order at 9:10 a.m.
- PRESIDING:** Harold S. Seigel, D.D.S., President
- MEMBERS PRESENT:** Meera Gokli, D.D.S.
Jacqueline G. Pace, R.D.H.
Darryl J. Pirok, D.D.S.
Misty L. Sissom, R.D.H.
Edward P. Snyder, D.D.S.
Millard D. Stith, Jr.
James D. Watkins, D.D.S.
Glenn A. Young, D.D.S.
Paul N. Zimmet, D.D.S.
- STAFF PRESENT:** Sandra Reen, Executive Director
Cheri Emma-Leigh, Operations Manager
Elaine Yeatts, Senior Policy Analyst
Gail Jaspen, Chief Deputy Director
LaFonda Parham, Administrative Assistant
- COUNSEL PRESENT:** Howard Casway, Senior Assistant Attorney General
- QUORUM:** With ten members of the Board present, a quorum was established.
- PUBLIC COMMENT:** Terry Dickinson, D.D.S., the Executive Director of the Virginia Dental Association, invited Board members to participate in the VDA Super Mom Project, which will be held in New Orleans in February 2006.
- APPROVAL OF MINUTES:** Dr. Seigel asked if everyone had a chance to review the minutes. On a properly seconded motion by Dr. Zimmet, the Board approved the Minutes of the Formal Hearings of September 15, 2005, the Minutes of the Board Meeting of September 16, 2005 with an amendment in the Board Discussion section to strike "Council on Dental Accreditation" and replace it with "ADA Commission on Dental Accreditation," the Minutes of the Board Meeting of September 30, 2005, the Minutes of the Formal Hearings of September 30, 2005, and the Telephone Conference Call Meeting of November 4, 2005.

REPORTS:

Board of Health Professions: Dr. Seigel indicated that there was nothing new to report.

Executive Committee: Dr. Seigel stated that the Committee met on October 21, 2005 and

- adopted for public comment proposed regulations to implement the 2005 legislation which would replace the emergency regulations now in effect.
- proposed amendments to the bylaws which are included in the agenda package.

On a properly seconded motion by Dr. Zimmet, the Board adopted the proposed bylaws.

- met with Mark Monson, DHP Deputy Director of Administration, and Charles Giles, DHP Budget Manager, to discuss the budget and the options for a fee increase.

Dr. Seigel then asked Mr. Monson to address the proposals for increasing fees. Mr. Monson presented the three (3) options in the agenda package which were calculated based on doubling the renewal fee for a dental license and adjusting all others fees accordingly. He also noted that two new fees were being recommended for dental licensure by credentials and dental hygiene licensure by endorsement. Discussion addressed the reliability of the projections, the effect of cash balances over 10% of the budget and the mechanism for reducing fees if needed. When asked, Mr. Monson recommended adoption of Option #2.

On a properly seconded motion by Ms. Sissom, the Board adopted Option #2, which doubles the current dental renewal fee plus 5% and, adjusts other fees accordingly for implementation beginning with renewals in 2007.

Regulatory-Legislative Committee: Dr. Snyder reported that the Committee met on December 7, 2005 and adopted the following actions or motions for Board consideration:

- The Committee moves that the Board support the VDA and VDHA legislative proposal to amend the Drug Control Act to allow dental hygienists with appropriate training to administer local anesthesia and nitrous oxide to patients over 18 under the direction of a dentist. Ms. Yeatts reported that she had received a revised statement from the VDHA which would restrict the administration of local anesthesia to patients over 18 but allow administration of nitrous oxide and inhalation analgesia to any patient irregardless of age. A motion to amend by removing the

age restriction “over 18” failed. Ms. Yeatts read the proposal from the VDHA as follows: “A dentist may authorize a dental hygienist under direction to administer Schedule VI local anesthesia to persons eighteen years and older and Schedule VI nitrous oxide and oxygen inhalation analgesia. The Board of Dentistry shall establish by regulations the education and training requirements under which a dental hygienist may administer such drugs.” On a properly seconded motion by Dr. Snyder, the Board agreed to amend the Committee’s motion to reflect Ms. Yeatts’s reading. On a properly seconded motion by Dr. Snyder, the Board adopted the amended motion.

- The Committee discussed amending regulations to allow dental assistants to clip a wire or remove a band when the dentist is not present then decided not to pursue a regulatory change. Instead he reported it is recommended that the Board adopt as guidance that this is acceptable practice without regulatory change. On a properly seconded motion by Dr. Zimmet, the Board adopted the guidance that a dental assistant is permitted to clip a wire or remove a band when the dentist is not present.
- The Committee discussed the frequency for updating medical histories and recommended that the Board’s guidance be that the health history of an active patient, who is receiving dental care at least once a year, should be updated at least annually or more often if medically indicated. If an inactive patient seeks dental care less often than annually, the health history should be updated at the time of each visit. Ms. Yeatts distributed a draft guidance document for discussion. It was agreed to drop the word “active” and just refer to “a patient” and to add the following sentence; “The updated health history shall be documented in the patient record.” On a properly seconded motion by Mr. Stith, the Board adopted the guidance document as amended.
- the Committee moves that the Board pursue legislation to establish two classes of dental assistants, Level I being allowed to serve as chairside assistants and Level II being allowed to perform expanded duties when qualified by education and certification. Ms. Yeatts advised that this might be proposed for the 2007 Session. The motion was adopted.
- The Committee reviewed the VDA proposal for expanded duties

for dental assistants to include placing, packing and removing cord, condensing, contouring and adjusting direct restorations, and under general supervision, fabricate temporary restorations and/or re-cement a temporary restoration with temporary cement for a patient of record, providing that the patient is rescheduled for follow-up care with the dentist. A motion to continue the regulatory action based on the VDA position failed and the matter of taking regulatory action was referred back to the Committee.

- the Committee moves that the Board undertake fast track regulatory action to amend 18 VAC 60-20-100 to enable the Board to accept alternate documentation or to waive an application requirement when a third party is unable to produce a document. Ms. Yeatts recommended the following language: "If a transcript or other documentation required for licensure cannot be produced by the entity from which it is required, the board, in its discretion, may accept other evidence of qualification for licensure." On a properly seconded motion by Ms. Sissom, the Board amended the motion to use the language recommended by Ms. Yeatts. The motion passed as amended.
- the Committee moves that the Board undertake fast track regulatory action to amend 18 VAC 60-20-100.3 to require a report from the National Practitioner Data Bank in addition to one from the Healthcare Integrity and Protection Data Bank. Ms. Reen explained that the NPDB is the source for malpractice information. The motion passed.
- The Committee discussed the number of hygienists a dentist is allowed to supervise but took no action.
- the Committee discussed whether CPR courses that do not include a test or demonstration of skill should be acceptable continuing education and decided the current regulations should be followed.

Ms. Sissom asked if the Committee addressed her question about acceptance of manufacturer's courses on products. Dr. Snyder responded that the Committee did discuss this and that the regulations do not exclude continuing education by manufacturers so long as the content and sponsor requirements are met. Ms.

Reen stated that the confusion might stem from the policy adopted for the Board when it was approving continuing education programs, that policy included a provision that programs promoting a product would not be reviewed by the Board.

**LEGISLATION AND
REGULATION:**

Fee Increase: Dr. Seigel noted this matter was addressed during the Executive Committee report.

Petition for Rule-making from Dr. Gibson: The Board reviewed a Petition for Rule-making from Dr. Gibson requesting that the Board amend the rule to allow the acceptance of regional Board Scores (NERB, SRTA, CRDTS, WREB) beginning January 1, 2000. Ms. Reen advised this petition would be published and would come back to the Board for action once the public comment period closes.

BOARD DISCUSSION:

Letter from Dr. Harris on Reconsideration of Board Actions:

The Board reviewed a letter from John L. Harris, III, D.D.S. and asked staff to inform Dr. Harris that his comments are appreciated and that:

- it is proceeding with fee increases as required by law to address a deficit in excess of 10% of the budget;
- Mr. Casway indicated that he has reviewed the matter of the appropriate use of the term "Dr." by dentists and that he stands by the interpretation previously given. The Board accepted Mr. Casway's position; and,
- the Board will further consider acceptance of the ADEX exam and membership in a regional testing agency at its next meeting.

Letter from Dr. Supan on Practitioner Advertising: The Board reviewed a letter from Paul Supan, D.D.S., who is concerned with the use of the word "certified" in advertising and requests that the Board develop specific guidelines. On a properly seconded motion by Dr. Watkins, the Board referred this matter to the Regulatory-Legislative Committee.

Clinical Examinations: The Board agreed to defer discussion of the items from ADEX and WREB and about ADEX which are related to examinations accepted by the Board to its next meeting.

AADE Mid-Year Meeting: Dr. Seigel asked who was interested in attending this meeting. The members who expressed interest were Dr. Seigel, Ms. Sissom, Dr. Pirok, Dr. Zimmet, and Ms. Pace.

Mr. Casway also requested to attend. Dr. Seigel asked Ms. Reen to submit a request for everyone interested to attend.

Dr. Seigel then asked about plans for attendance at the **Southern Conference of Deans and Dental Examiners** meeting in January. Ms. Reen reported that Dr. Zimmet is scheduled to attend on behalf of the Board. Dr. Seigel stated his interest in attending as did Dr. Watkins. Ms. Reen was asked to submit a request for their attendance.

Dr. Watkins suggested that observers should attend the **SRTA examination at VCU on January 27, 2006**. Dr. Young, Dr. Gokli and Dr. Watkins indicated their interest in observing the exam. Ms. Reen agreed to contact SRTA to make the request.

Uniform Sanctions: Dr. Seigel proposed that sanctions be adopted to guide outcomes in cases on failure to renew and missing CE credits. He explained there should be consistency by the Board and by all boards in the Department of Health Professions. Ms. Reen stated that the Board allows a licensee to renew their license without any disciplinary action if they renew within two (2) months. After two (2) months, a disciplinary case would be opened for unlicensed activity. On a properly seconded motion by Dr. Zimmet, the Board asked staff to prepare a proposal that addresses administrative sanctions.

Reinstituting Jurisprudence Exam: Dr. Seigel suggested that the Board consider reinstituting the Jurisprudence Exam. On a properly seconded motion by Dr. Zimmet, the Board referred this matter to the Exam Committee.

Renewal Survey: Dr. Seigel recommended that the Board consider doing a survey with renewals to determine which areas in the Commonwealth are under or over served. The questions he suggested were:

- What area of dentistry do you practice?
- What is the zip code of your primary practice?
- How many hours do you practice?
- What is the zip code of your residence?

A motion to conduct the survey failed.

**BOARD COUNSEL
REPORT:**

Litigation: The Board agreed to enter into a closed meeting to discuss matters pertaining to Drs. Merrikh, Patch, Petka and

Turner.

Closed Meeting: On a properly seconded motion by Dr. Zimmet, the Board voted to enter into a closed meeting pursuant to § 2.2-3711(a)(7) of the Code of Virginia for consultation with legal counsel pertaining to actual or probable litigation. Additionally, it was moved that Howard Casway, Board Counsel, and Board staff Sandra Reen and Cheri Emma-Leigh attend the closed meeting because their presence in the closed meeting was deemed necessary and would aid the Board in its deliberations.

Reconvene: On a properly seconded motion by Dr. Zimmet, the Board agreed that only public matters lawfully exempted from open meeting requirements under Virginia law were discussed in the closed meeting and only public business matters as were identified in the motion convening the closed meeting were heard, discussed or considered by the Board.

**EXECUTIVE
DIRECTOR'S REPORT:**

Introduction of new staff: Ms. Reen introduced the Board's new staff, LaFonda Parham and Kristy Evans. Both Ms. Parham and Ms. Evans are serving as administrative assistants in the wage positions assigned to the Board.

Recruitment of Deputy Executive Director: Ms. Reen reported that the position was advertised a second time and interviews will be conducted on December 14, 2005. She also reported that Dr. Watkins would be serving on the interview panel.

**LUNCH MEETING WITH
DR. WILEY AND DR.
HAGAN:**

Dr. Seigel advised that Drs. Wiley and Hagan were invited to have lunch with the Board and to update the Board on what is happening at the VCU/MCV School of Dentistry. Dr. Hagan noted that they have begun using a new training simulator, discussed the recent experiences related to clinical examinations, reported that the Board's disciplinary role is addressed in their Practice Management class the suggested that dental students should observe an informal conference or formal hearing as part of their learning experience, and that it would be a great benefit to have Board members involved with the clinical exam. Dr. Seigel responded by expressing the Board's interest in acting on the suggestions and asked Ms. Reen to work with Dr. Hagan on planning student observations of proceedings.

TRAINING ON

Neal Kauder gave a presentation on the Sanctioning Reference

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**SANCTIONING
REFERENCE POINTS:**

Points and reviewed the instruction manual developed for Dentistry. On a properly seconded motion by Dr. Pirok, the Board adopted the Sanctioning Reference Points Instruction Manual as a guidance document effective January 1, 2006.

ADJOURNMENT

With all business concluded, the Board meeting was adjourned at 2:35 p.m.

Harold S. Seigel, D.D.S., President

Sandra K. Reen, Executive Director

Date

Date